

**Town of Fenwick Island  
Minutes of the Charter & Ordinance Committee Meeting  
January 5, 2010**

*Approved 02/02/2010*

**Call to Order at 9:30 a.m.**

**Present:** Committee Members Bill Weistling, Gene Langan, Vicki Carmean, Diane Tingle, Mike Quinn, Buzz Henifin, Winnie Lewis, Win Abbott and Pat Schuchman.

**Absent:** Audrey Serio

**Public Attendance:** John Belian

**Minutes:**

- Vicki Carmean made a motion to approve the minutes of December 1, 2009 seconded by Mike Quinn. Mike made a motion that the Minutes reflect that the definition of "Person" should be consistent throughout the codebook, seconded by Diane Tingle. The Minutes as amended were unanimously approved.

**Discussion of Ordinances Under Review:**

- Bill Weistling stated that the ordinances under review are Chapters 77 (Disorderly Conduct), Chapter 102 (Lighting) and Chapter 107 (Noise).
- The proposed amendments to these have been reviewed by Tempe Steen and her recommendations have been included in these drafts.
- Chapter 102 - Bill stated that Tempe's review of the Lighting ordinance included minor changes. The spelling of the term "cited" was corrected and §102-11 was amended to include notification of a violation to the owner of the property.
- The corrections to Chapter 102 will be made and the C&O Committee agreed that it will be presented to Town Council for a First Reading at the January 2010 meeting.
- Chapter 107 - Gene Langan reported that the Chapter was amended using committee recommendations as previously discussed and subsequent suggestions by Tempe.
- Tempe agreed that we could remove references to a "noise meter" since our definition of "noise disturbance" generally can be upheld in any court in Delaware. Gene commented that the key phrase "disturbs a reasonable person of normal sensitivities" covers how a court would interpret a violation.
- Vickie Carmean expressed a concern of malfunctioning mechanical equipment. Bill explained that §107-5 (Fixed External Mechanical Equipment) places the burden of a complaint on the complainant.
- Gene further pointed out that an addition to §107-7 would include noise violations in the case of a rental property. Some changes to the proposed §107-7C were discussed and these changes will be submitted for Tempe's review.
- Chapter 107-2A has been amended using some verbiage found in the Bethany Beach code. This will cover a wider variety of noise disturbances.
- Once reviewed by Tempe, it can be forwarded to Town Council for a First Reading.
- Chapter 77 - Buzz Henifin expressed concern that some definition such as "juvenile or minor" and "time of night" are too lengthy making it difficult to understand.
- Win Abbott pointed out that these are legal terms, some of which can apply to a teacher or custodial adult, not necessarily a parent.
- It was agreed that the definition of "Time of Night" does not need to include "prima facie the time then observed in the Town administrative offices and police station". This portion of the definition will be removed.
- It was also agreed that in the definition of "Years of Age" anything after "under 18 years of age" can be removed.

- It was agreed by the Committee that fines should be raised to \$200 throughout the Chapter, however there needs to be reference to “upon conviction”. We will ask for Tempe’s opinion and then modify our “Violations and Penalties” section per her recommendations.
- A discussion on “peace officer” occurred with agreement that this is not only a police officer, persons in an official capacity such as a lifeguard, firefighter, etc., would fall into this definition.
- §77-6 will be changed to state “A person may be found guilty of disorderly conduct when” since enforcement will require a conviction of guilt.
- It was agreed to include an item “D” under §77-10 in order to cover noise disturbances created by rental properties.
- Buzz has suggested that Chapter 116 (Peace and Good Order) be incorporated in Chapter 77. A discussion resulted in an agreement that “Peace and Good Order” needs to remain a separate chapter.
- The changes to Chapter 77 will be made and further discussion will be held at the February C&O Meeting.

#### **Comprehensive Plan:**

- Winnie Lewis reported that the Planning Committee will meet next Tuesday and re-organization of the committee will take place. Bill asked that Winnie report back to this Committee any Planning Committee recommendations.

#### **Next Meeting:**

- Next meeting – February 2, 2010 at 9:30 a.m.
- Discussions planned will be:
- Continued discussion of Chapter 77 (Disorderly Conduct)  
- Codebook Updates (Chapter 112 – 160)

#### **Old Business:**

- Bill reported that First Readings scheduled for the January 2010 Town Council meeting will be Chapter 95 (Hazardous Materials) and Chapter 102 (Lighting).
- Bill also commented that while researching other Town codes for assistance in C&O goals, Pat Schuchman found that Bethany Beach code has their fines and penalties listed in a single chapter under “General Provisions” rather than within each Chapter. This may be something for this Committee to consider in the future.
- Buzz had asked if newly approved amendments were available anywhere. Pat said that all approved codebook amendments are immediately sent to General Code and are accessible on-line at [www.generalcode.com](http://www.generalcode.com).

#### **Adjourn:**

- Diane Tingle made a motion to adjourn the meeting, seconded by Gene Langan. The meeting was adjourned at 11:00 a.m.